

REMARKS

Claims 14-17, 19-22, 51-53 and 55-64 are presently pending in the subject application. Claims 14-16, 19, 20, 51, 52, 55 and 59-64 have been examined and stand rejected. Claims 17, 21, 22, 53 and 56-58 have been withdrawn as non-elected species in a previous restriction requirement. However, Applicants understand that the withdrawn claims will be allowed once their parent claims from which they depend are allowed.

By way of the above amendments, claims 14 and 51 have been amended, and support for such claims amendments can be found throughout the specification. In addition, claims 1-13 and 41-50 have been canceled without prejudice or disclaimer of the subject matter thereof, and Applicants reserve the right to pursue the subject matter of all canceled claims in continuation and/or divisional applications. Favorable reconsideration of the subject application is respectfully requested in view of the following remarks.

The Examiner has rejected claims 14, 19, 20, 51 and 55 under 35 U.S.C. §102(b or e) as being anticipated by U.S. Patent No 6,248,077 to Elson et al. (Elson) or U.S. Patent No. 4,476,877 to Barker. The Examiner has further rejected claims 15, 16, 52 and 59 - 64 under 35 U.S.C. §103(a) as being unpatentable over Elson or Barker in view of U.S. Patent No. 3,940,742 to Hudspeth et al. (Hudspeth). In addition, the Examiner has rejected claims 14-16, 19, 20, 51, 52, 55 and 59-64 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 1,479,451 to Buckstein in view of Barker and Hudspeth. These rejections are traversed in view of the above amendment and the following remarks.

In order to expedite prosecution of the subject application, independent claim 14 has been amended to recite a uniform passage disposed in the fitting of the temperature sensing device to permit sterile medical solution flowing within the fluid line to flow through the fitting, a connection port disposed on an exterior surface of the fitting and including an open proximal end and an open distal end, where the distal end is in fluid communication with the passage, and further that the thermally conductive receptacle extends partially within the passage such that the closed distal end of the receptacle is proximate the distal end of the connection port and contacts fluid flowing within the passage.

Similarly, independent claim 51 has been amended to recite uniform flow means disposed within the connector means of the temperature sensing device for permitting sterile medical solution flowing within the fluid line to flow through the connector means, fluid access means disposed on an exterior surface of the connector means and including an open proximal end and an open distal end, where the open distal end of the fluid access means is in fluid communication with the flow means, and that the thermal contact means extends partially within the uniform flow means such that the closed distal end of the thermal contact means is proximate the distal end of the fluid access means and contacts fluid flowing within the uniform flow means. Elson, Barker, Buckstein and Hudspeth, when considered alone or in any possible combination with each other, do not anticipate or render obvious the combined features of amended claim 14 or amended claim 51.

Elson discloses a system for sensing a fluid including a fitting 25 with a passage 89 extending therethrough and a boss 91 extending from the fitting 25 and including a port 93 in communication with passage 89. A receiver 95 extends completely across passage 89 and into boss 91. The receiver 95 is configured to receive a thermistor 115 of a probe 23 for measuring temperatures of fluids flowing through passage 89. As can be seen from Fig. 1 in Elson, the fitting 25 is connected at one end with a syringe 19, such the temperature of injectate flowing from the syringe can be measured by the probe 23 within fitting 25 prior to delivery to a patient. Elson further discloses a restriction 105 that restricts the flow passage 89 at the receiver 95 (see Col. 5, lines 18-20 of Elson).

Elson fails to teach the combined features of claims 14 and 51, with particular regard to the recited uniform passage (claim 14) or uniform flow means (claim 51) and the receptacle extending partially within the passage such that the receptacle closed distal end is proximate the connection port distal end and contacts fluid flowing within the passage (claim 14) or the thermal contact means extends partially within the uniform flow means such that the closed distal end of the thermal contact means is proximate the distal end of the fluid access means and contacts fluid flowing within the uniform flow means (claim 51).

As noted above, the passage 89 of Elson includes a restriction 105 and is thus not uniform as recited for the passage of claim 14 and the flow means of claim 51. Further, the

receiver 95 of Elson extends completely across passage 89, connecting with the tubular wall section of fitting 25, and thus does not partially extend within the passage, and the closed distal end of the receiver 95 is not proximate the distal end of the port 93 and further does not appear capable of contacting fluid flowing within the passage (since the closed distal end is embedded within the wall of the fitting 25). Therefore, Elson does not anticipate claims 14 and 51, and the Examiner is requested to withdraw the rejection to these claims as being anticipated by this reference.

Barker discloses a fluid temperature sensing device for use in a fluid flow system, in particular for sensing the temperature of an injectate injected from a syringe 12, where the device includes a housing 22 with a lumen 24 extending through the housing, an opening 27 extending through the housing 22 and a thermally conductive enclosure 28 inserted within the opening 27. The thermally conductive enclosure 28 extends substantially fully across the lumen 24 (see Fig. 2 of Barker). A thermistor temperature sensor 32 is potted in a carrier 33 so as to be received within enclosure 28 in order to determine the temperature of injectate flowing from the syringe 12 through lumen 24.

Barker fails to teach the combined features of claims 14 and 51, with particular regard to the recited uniform passage (claim 14) or uniform flow means (claim 51) and the receptacle extending partially within the passage such that the receptacle closed distal end is proximate the connection port distal end and contacts fluid flowing within the passage (claim 14) or the thermal contact means extends partially within the uniform flow means such that the closed distal end of the thermal contact means is proximate the distal end of the fluid access means and contacts fluid flowing within the uniform flow means (claim 51).

Rather, Barker teaches a passage or lumen 24 that is tapered or narrows as it extends between luer lock connection ends 25 and 26 (see Fig. 2 of Barker). Thus, the lumen of Barker cannot be construed as a uniform passage or uniform flow means as recited in claim 14 or claim 51. Further, the thermally conductive enclosure 28 extends substantially fully across lumen 24 and therefore is not proximate the opening 27 or any connection port distal end or distal end of a fluid access means as recited in claim 14 or claim 51. For at least these reasons, Barker does not

anticipate claims 14 and 51, and the Examiner is requested to withdraw the rejection to these claims based as being anticipated by this reference.

Further, no combination of Elson or Barker with Hudspeth or Buckstein renders obvious the combined features of claim 14 or claim 51, since neither Hudspeth or Buckstein even discloses a fitting including a uniform passage, a connection port and a thermally conductive receptacle as recited in claim 14 or a connector means including a uniform flow means, a fluid access means and a thermal contact means as recited in claim 51.

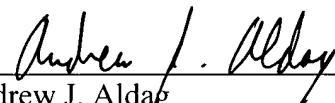
Claims 15, 16, 19, 20, 52, 55 and 59-64 depend, either directly or indirectly, from one of claims 14 and 51 and therefore include all of the limitations of their parent claims. Accordingly, these claims should also be allowed over Elson and Barker, alone or in combination with Hudspeth, based upon the previous remarks for claims 14 and 51, and the Examiner is requested to withdraw the rejection of these claims as being anticipated or rendered obvious by these references.

Claims 14-16, 19, 20, 51, 52, 55 and 59-64 also stand rejected as being obvious over Buckstein in view of Barker and Hudspeth. However, as noted above, neither Buckstein or Hudspeth even teaches a fitting as recited in claim 14 or a connector means as recited in claim 51. As further noted above, Barker fails to teach the combined features of claim 14 or claim 51. Accordingly, no combination of Buckstein, Barker and Hudspeth renders claims 14-16, 19, 20, 51, 52, 55 and 59-64 obvious, and the Examiner is requested to withdraw the rejection of these claims as being obvious over these references.

The application, having been shown to overcome issues raised in the Office Action, is considered to be in condition for allowance and a Notice of Allowance is earnestly solicited.

A petition for a one month extension of time and petition fee are being submitted along with this Amendment. Applicant hereby petitions for any additional extension of time that may be required to maintain the pendency of this case, and any required fee for such extension is to be charged to Deposit Account No. 05-0460.

Respectfully submitted,

  
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